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11 GAP INTERNATIONAL SALES, INC., THE GAP, INC.,
12 BANANA REPUBLIC, LLC, and OLD NAVY, LLC

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16 GABANA GULF DISTRIBUTION, LTD., a
17 company organized under the laws of the
18 United Kingdom, and GABANA
19 DISTRIBUTION, LTD., a company organized
20 under the laws of the United Kingdom,

21 Plaintiffs,

22 v.

23 GAP INTERNATIONAL SALES, INC., a
24 Delaware corporation, THE GAP, INC., a
25 Delaware corporation, BANANA REPUBLIC,
26 LLC, a Delaware limited liability company,
27 and OLD NAVY, LLC, a Delaware limited
28 liability company,

Defendants.

Case No. C 06 2584 CRB (EDL)

**~~JOINT PROPOSED~~ ORDER
REGARDING DEFENDANTS' MOTION
FOR AN ORDER UPHOLDING THEIR
CONFIDENTIALITY DESIGNATIONS
UNDER THE PROTECTIVE ORDER**

Date: June 26, 2007
Time: 9:00 a.m.
Place: Courtroom E, 15th Floor
Judge: Hon. Elizabeth D. Laporte

Date Comp. Filed: April 14, 2006

Trial Date: December 3, 2007

1 Defendants Gap International Sales, Inc., The Gap, Inc., Banana Republic, LLC, and Old
 2 Navy, LLC (collectively “Gap”) brought a motion for an order upholding their confidentiality
 3 designations under the parties’ stipulated protective order, which came on for hearing on June
 4 26, 2007. The motion is GRANTED IN PART and DENIED IN PART, subject to the following
 5 provisions and the Court’s statements on the record during the hearing. In particular, at the
 6 hearing, the Court ordered the parties to meet and confer and develop a protocol for resolving
 7 their dispute relating to whether Gap’s confidentiality designations are proper, subject to certain
 8 guidelines set by the Court during the hearing.

9 The guiding principles ordered by the Court in relation to confidentiality designations are
 10 as follows:

- 11 1. Stale information shall not be designated confidential;
- 12 2. Photographs of public places are not confidential unless they reflect non-stale
 13 proprietary or trade secret information;
- 14 3. Compilations of purely public information are not confidential; and
- 15 4. Gap may apply confidentiality designations at the document level, unless Gabana
 16 identifies a particular need to have a portion(s) of a document de-designated.

17 The parties have agreed that the protocol for conducting the meeting and conferring
 18 relating to those documents designated by Gap as highly confidential or confidential and which
 19 were the subject of this motion is as follows:

- 20 1. Gabana will first identify to Gap by letter the highly confidential documents as to
 21 which Gabana challenges the highly confidential designation. Within ten days of receipt of the
 22 letter, the parties will schedule an in-person meeting to attempt to resolve informally the dispute
 23 with respect to these documents. If there are any remaining disagreements following said
 24 meeting, the parties will agree on a briefing schedule to raise these remaining issues with the
 25 Court.
- 26 2. Following completion of the above process with respect to highly confidential
 27 documents, the parties will meet and confer regarding Gap’s confidentiality designations, but
 28

only with respect to documents predating 2005 and constituting or mentioning communications with Gabana, Roots, Al Turki, RSH or Solka. The parties will schedule an in-person meeting to seek to resolve informally any disputes concerning these identified documents. If there are any remaining disagreements following said meeting, the parties will agree on a briefing schedule to raise these remaining issues with the Court.

3. The parties will not bring any matter to the Court pursuant to the above paragraphs without having a final telephone call where the party wishing to submit the matter to the Court attempts one last meet and confer and then informs the other party that the meeting and conferring is complete.

4. Pending resolution of the above meet-and-confer efforts, and any subsequent motion practice, the documents Gap designated as “Confidential” and “Highly Confidential” shall be treated as such under the parties’ stipulated protective order of November 28, 2006.

5. Gap shall have seven (7) days from the entry of this order to identify those documents that are the subject of Gabana’s Miscellaneous Administrative Request to File Documents Under Seal (docket no. 94), concerning exhibits V, W, X, BB, DD, EE, II, and KK—NN to the Declaration of G. Steven Fender, for which Gap wishes to withdraw its confidentiality designation.

IT IS SO ORDERED.

Date: July 5, 2007

HONORABLE JUDGE ELIZABETH D. LAPORTE
United States Magistrate Judge

